

Time	Time (years)	CVWD_1	CVWD_2	CVWD_3	CVWD_4	CVWD_5	CVWD_6	CVWD_7	CVWD_8	CVWD_9	CVWD_10	CVWD_11	CVWD_12	CVWD_13	CVWD_14	CVWD_15
2.73E+04	2056.22	0.0706	0.2499	0.0654	0.0123	0.0801	-0.4620	0.1144	0.0129	0.0325	0.0127	0.0082	0.0132			
2.73E+04	2056.26	0.0708	0.2483	0.0654	0.0124	0.0802	-0.4620	0.1154	0.0130	0.0328	0.0128	0.0082	0.0134			
2.73E+04	2056.31	0.0710	0.2460	0.0655	0.0125	0.0807	-0.4620	0.1167	0.0131	0.0333	0.0130	0.0083	0.0135			
2.73E+04	2056.35	0.0712	0.2444	0.0655	0.0126	0.0811	-0.4620	0.1175	0.0132	0.0336	0.0131	0.0083	0.0137			
2.73E+04	2056.36	0.0713	0.2441	0.0655	0.0127	0.0813	-0.4620	0.1177	0.0132	0.0337	0.0132	0.0083	0.0137			
2.73E+04	2056.39	0.0719	0.2429	0.0656	0.0128	0.0825	-0.4620	0.1188	0.0133	0.0341	0.0135	0.0083	0.0139			
2.73E+04	2056.42	0.0724	0.2421	0.0657	0.0129	0.0833	-0.4620	0.1197	0.0134	0.0345	0.0137	0.0083	0.0140			
2.74E+04	2056.46	0.0731	0.2412	0.0659	0.0131	0.0844	-0.4620	0.1208	0.0135	0.0350	0.0139	0.0083	0.0142			
2.74E+04	2056.51	0.0738	0.2403	0.0662	0.0132	0.0856	-0.4620	0.1222	0.0137	0.0356	0.0142	0.0083	0.0145			
2.74E+04	2056.54	0.0745	0.2397	0.0664	0.0134	0.0866	-0.4620	0.1233	0.0138	0.0361	0.0145	0.0084	0.0147			
2.74E+04	2056.60	0.0754	0.2389	0.0669	0.0136	0.0879	-0.4620	0.1248	0.0140	0.0368	0.0148	0.0084	0.0149			
2.74E+04	2056.60	0.0755	0.2388	0.0669	0.0136	0.0881	-0.4620	0.1250	0.0140	0.0368	0.0148	0.0084	0.0149			
2.74E+04	2056.64	0.0761	0.2383	0.0672	0.0138	0.0890	-0.4620	0.1261	0.0142	0.0373	0.0150	0.0085	0.0151			
2.74E+04	2056.70	0.0770	0.2376	0.0677	0.0140	0.0901	-0.4620	0.1275	0.0144	0.0380	0.0153	0.0085	0.0154			
2.75E+04	2056.72	0.0774	0.2374	0.0680	0.0141	0.0906	-0.4620	0.1281	0.0144	0.0383	0.0155	0.0085	0.0155			
2.75E+04	2056.76	0.0779	0.2370	0.0683	0.0142	0.0914	-0.4620	0.1290	0.0146	0.0387	0.0157	0.0086	0.0157			
2.75E+04	2056.81	0.0787	0.2364	0.0688	0.0144	0.0924	-0.4620	0.1302	0.0148	0.0393	0.0160	0.0086	0.0159			
2.75E+04	2056.85	0.0792	0.2360	0.0692	0.0145	0.0931	-0.4620	0.1310	0.0149	0.0398	0.0162	0.0087	0.0161			
2.75E+04	2056.86	0.0793	0.2359	0.0692	0.0146	0.0932	-0.4620	0.1312	0.0149	0.0398	0.0162	0.0087	0.0161			
2.75E+04	2056.90	0.0798	0.2354	0.0695	0.0147	0.0937	-0.4620	0.1319	0.0150	0.0402	0.0164	0.0088	0.0163			
2.75E+04	2056.93	0.0801	0.2351	0.0698	0.0148	0.0941	-0.4619	0.1324	0.0151	0.0404	0.0165	0.0088	0.0164			
2.75E+04	2056.97	0.0805	0.2347	0.0701	0.0149	0.0944	-0.4619	0.1330	0.0152	0.0407	0.0166	0.0088	0.0165			
2.76E+04	2057.01	0.0809	0.2342	0.0704	0.0150	0.0949	-0.4619	0.1337	0.0154	0.0410	0.0168	0.0089	0.0167			
2.76E+04	2057.05	0.0812	0.2338	0.0707	0.0151	0.0952	-0.4619	0.1343	0.0155	0.0413	0.0170	0.0089	0.0168			
2.76E+04	2057.10	0.0816	0.2333	0.0710	0.0153	0.0957	-0.4619	0.1350	0.0156	0.0417	0.0171	0.0090	0.0170			
2.76E+04	2057.10	0.0817	0.2332	0.0711	0.0153	0.0958	-0.4619	0.1351	0.0156	0.0417	0.0172	0.0090	0.0170			
2.76E+04	2057.14	0.0819	0.2328	0.0713	0.0154	0.0961	-0.4619	0.1356	0.0157	0.0420	0.0173	0.0091	0.0171			
2.76E+04	2057.20	0.0823	0.2324	0.0717	0.0155	0.0966	-0.4618	0.1362	0.0158	0.0423	0.0174	0.0091	0.0172			
2.76E+04	2057.22	0.0825	0.2322	0.0718	0.0156	0.0968	-0.4618	0.1364	0.0159	0.0424	0.0175	0.0091	0.0173			
2.77E+04	2057.26	0.0827	0.2319	0.0720	0.0157	0.0970	-0.4618	0.1369	0.0159	0.0426	0.0176	0.0092	0.0174			
2.77E+04	2057.31	0.0830	0.2316	0.0723	0.0158	0.0974	-0.4618	0.1374	0.0160	0.0429	0.0177	0.0092	0.0175			
2.77E+04	2057.35	0.0833	0.2314	0.0725	0.0158	0.0976	-0.4618	0.1377	0.0161	0.0431	0.0178	0.0093	0.0176			
2.77E+04	2057.36	0.0833	0.2314	0.0725	0.0158	0.0977	-0.4618	0.1378	0.0161	0.0431	0.0178	0.0093	0.0176			
2.77E+04	2057.39	0.0836	0.2312	0.0727	0.0159	0.0980	-0.4618	0.1382	0.0162	0.0433	0.0179	0.0093	0.0177			
2.77E+04	2057.42	0.0838	0.2311	0.0728	0.0159	0.0983	-0.4617	0.1385	0.0162	0.0435	0.0180	0.0093	0.0177			
2.77E+04	2057.46	0.0841	0.2309	0.0730	0.0160	0.0988	-0.4617	0.1390	0.0163	0.0438	0.0181	0.0094	0.0178			
2.77E+04	2057.51	0.0845	0.2307	0.0732	0.0161	0.0994	-0.4617	0.1394	0.0163	0.0440	0.0182	0.0094	0.0178			
2.78E+04	2057.54	0.0849	0.2306	0.0733	0.0161	0.1000	-0.4617	0.1398	0.0163	0.0443	0.0182	0.0094	0.0179			
2.78E+04	2057.60	0.0853	0.2304	0.0736	0.0162	0.1006	-0.4617	0.1401	0.0164	0.0446	0.0183	0.0095	0.0180			
2.78E+04	2057.60	0.0854	0.2304	0.0736	0.0162	0.1006	-0.4616	0.1402	0.0164	0.0446	0.0184	0.0095	0.0180			
2.78E+04	2057.64	0.0857	0.2303	0.0738	0.0162	0.1010	-0.4616	0.1404	0.0165	0.0449	0.0184	0.0095	0.0181			
2.78E+04	2057.70	0.0861	0.2302	0.0741	0.0163	0.1015	-0.4616	0.1406	0.0165	0.0452	0.0185	0.0095	0.0181			
2.78E+04	2057.72	0.0863	0.2301	0.0742	0.0163	0.1018	-0.4616	0.1406	0.0165	0.0453	0.0186	0.0095	0.0182			

Time	Time (years)	CVWD_1	CVWD_2	CVWD_5	CVWD_6	CVWD_7	CVWD_8	CVWD_9	CVWD_10	CVWD_11	CVWD_12	CVWD_14	CVWD_15
2.78E+04	2057.76	0.0864	0.2301	0.0744	0.0164	0.1024	-0.4616	0.1407	0.0166	0.0455	0.0186	0.0096	0.0182
2.79E+04	2057.81	0.0866	0.2301	0.0746	0.0164	0.1028	-0.4615	0.1408	0.0166	0.0458	0.0187	0.0096	0.0183
2.79E+04	2057.85	0.0868	0.2300	0.0747	0.0164	0.1030	-0.4615	0.1408	0.0166	0.0460	0.0188	0.0096	0.0183
2.79E+04	2057.86	0.0868	0.2300	0.0748	0.0165	0.1029	-0.4615	0.1407	0.0167	0.0460	0.0188	0.0096	0.0183
2.79E+04	2057.90	0.0869	0.2301	0.0749	0.0165	0.1027	-0.4615	0.1406	0.0167	0.0462	0.0188	0.0096	0.0184
2.79E+04	2057.93	0.0869	0.2301	0.0750	0.0165	0.1027	-0.4615	0.1404	0.0167	0.0463	0.0189	0.0096	0.0184
2.79E+04	2057.97	0.0869	0.2302	0.0751	0.0165	0.1027	-0.4615	0.1401	0.0167	0.0463	0.0189	0.0097	0.0185
2.79E+04	2058.01	0.0869	0.2303	0.0751	0.0166	0.1025	-0.4614	0.1398	0.0168	0.0464	0.0189	0.0097	0.0185
2.79E+04	2058.05	0.0868	0.2305	0.0752	0.0166	0.1020	-0.4614	0.1395	0.0168	0.0465	0.0189	0.0097	0.0185
2.80E+04	2058.10	0.0866	0.2307	0.0752	0.0166	0.1015	-0.4614	0.1391	0.0168	0.0465	0.0190	0.0097	0.0185
2.80E+04	2058.10	0.0866	0.2307	0.0752	0.0166	0.1014	-0.4614	0.1390	0.0168	0.0465	0.0190	0.0097	0.0185
2.80E+04	2058.14	0.0864	0.2310	0.0752	0.0166	0.1005	-0.4614	0.1387	0.0168	0.0465	0.0190	0.0097	0.0185
2.80E+04	2058.20	0.0860	0.2314	0.0751	0.0166	0.0998	-0.4614	0.1384	0.0168	0.0466	0.0190	0.0097	0.0185
2.80E+04	2058.22	0.0858	0.2316	0.0750	0.0167	0.0997	-0.4613	0.1382	0.0168	0.0466	0.0190	0.0097	0.0185
2.80E+04	2058.26	0.0856	0.2319	0.0749	0.0167	0.0996	-0.4613	0.1380	0.0168	0.0466	0.0190	0.0098	0.0185
2.80E+04	2058.31	0.0853	0.2324	0.0747	0.0167	0.0992	-0.4613	0.1376	0.0168	0.0465	0.0190	0.0098	0.0185
2.81E+04	2058.35	0.0851	0.2328	0.0746	0.0166	0.0990	-0.4613	0.1373	0.0168	0.0465	0.0190	0.0098	0.0185
2.81E+04	2058.36	0.0850	0.2328	0.0745	0.0166	0.0990	-0.4613	0.1373	0.0168	0.0465	0.0190	0.0098	0.0185
2.81E+04	2058.39	0.0850	0.2332	0.0744	0.0166	0.0992	-0.4613	0.1371	0.0168	0.0465	0.0190	0.0098	0.0185
2.81E+04	2058.42	0.0850	0.2335	0.0743	0.0166	0.0993	-0.4613	0.1371	0.0168	0.0465	0.0190	0.0098	0.0185
2.81E+04	2058.46	0.0850	0.2339	0.0741	0.0166	0.0991	-0.4613	0.1370	0.0168	0.0466	0.0190	0.0098	0.0185
2.81E+04	2058.51	0.0849	0.2343	0.0740	0.0166	0.0991	-0.4612	0.1369	0.0168	0.0466	0.0190	0.0098	0.0185
2.81E+04	2058.54	0.0849	0.2346	0.0739	0.0166	0.0993	-0.4612	0.1368	0.0168	0.0466	0.0190	0.0098	0.0185
2.81E+04	2058.60	0.0850	0.2351	0.0737	0.0166	0.0995	-0.4612	0.1365	0.0168	0.0467	0.0190	0.0098	0.0185
2.81E+04	2058.60	0.0850	0.2352	0.0737	0.0166	0.0995	-0.4612	0.1365	0.0168	0.0467	0.0190	0.0097	0.0185
2.82E+04	2058.64	0.0850	0.2355	0.0736	0.0166	0.0995	-0.4612	0.1363	0.0168	0.0467	0.0190	0.0097	0.0185
2.82E+04	2058.70	0.0849	0.2359	0.0735	0.0166	0.0995	-0.4612	0.1359	0.0167	0.0468	0.0190	0.0097	0.0185
2.82E+04	2058.72	0.0849	0.2361	0.0735	0.0166	0.0995	-0.4612	0.1358	0.0167	0.0468	0.0190	0.0097	0.0185
2.82E+04	2058.76	0.0847	0.2365	0.0733	0.0166	0.0996	-0.4612	0.1355	0.0167	0.0468	0.0190	0.0097	0.0185
2.82E+04	2058.81	0.0846	0.2369	0.0732	0.0166	0.0995	-0.4611	0.1351	0.0167	0.0468	0.0190	0.0097	0.0185
2.82E+04	2058.85	0.0845	0.2373	0.0731	0.0165	0.0994	-0.4611	0.1348	0.0167	0.0468	0.0190	0.0097	0.0185
2.82E+04	2058.86	0.0844	0.2373	0.0731	0.0166	0.0993	-0.4611	0.1348	0.0167	0.0468	0.0190	0.0097	0.0185
2.83E+04	2058.90	0.0839	0.2373	0.0730	0.0166	0.0989	-0.4611	0.1342	0.0167	0.0467	0.0189	0.0097	0.0185
2.83E+04	2058.93	0.0835	0.2372	0.0729	0.0166	0.0985	-0.4611	0.1336	0.0167	0.0465	0.0188	0.0097	0.0184
2.83E+04	2058.97	0.0830	0.2369	0.0728	0.0165	0.0978	-0.4611	0.1327	0.0167	0.0462	0.0186	0.0098	0.0184
2.83E+04	2059.01	0.0824	0.2364	0.0725	0.0165	0.0970	-0.4611	0.1317	0.0167	0.0459	0.0185	0.0098	0.0182
2.83E+04	2059.05	0.0819	0.2358	0.0723	0.0164	0.0961	-0.4611	0.1308	0.0166	0.0455	0.0183	0.0098	0.0181
2.83E+04	2059.10	0.0812	0.2350	0.0719	0.0163	0.0951	-0.4611	0.1297	0.0165	0.0450	0.0181	0.0098	0.0180
2.83E+04	2059.10	0.0811	0.2349	0.0719	0.0163	0.0949	-0.4611	0.1296	0.0165	0.0449	0.0180	0.0098	0.0180
2.83E+04	2059.14	0.0807	0.2342	0.0716	0.0162	0.0942	-0.4610	0.1288	0.0165	0.0444	0.0179	0.0098	0.0179
2.84E+04	2059.20	0.0800	0.2334	0.0712	0.0161	0.0932	-0.4610	0.1277	0.0164	0.0438	0.0177	0.0098	0.0177
2.84E+04	2059.22	0.0797	0.2330	0.0710	0.0160	0.0927	-0.4610	0.1273	0.0163	0.0436	0.0176	0.0098	0.0176
2.84E+04	2059.26	0.0792	0.2324	0.0707	0.0159	0.0916	-0.4610	0.1266	0.0162	0.0431	0.0175	0.0098	0.0175

Time	Time (years)	CVWD_1	CVWD_2	CVWD_3	CVWD_4	CVWD_5	CVWD_6	CVWD_7	CVWD_8	CVWD_9	CVWD_10	CVWD_11	CVWD_12	CVWD_13	CVWD_14	CVWD_15
2.84E+04	2059.31	0.0783	0.2316	0.0702	0.0158	0.0903	-0.4610	0.1256	0.0161	0.0425	0.0173	0.0097	0.0174			
2.84E+04	2059.35	0.0778	0.2310	0.0698	0.0157	0.0896	-0.4610	0.1249	0.0161	0.0421	0.0172	0.0097	0.0173			
2.84E+04	2059.36	0.0778	0.2311	0.0697	0.0157	0.0897	-0.4610	0.1248	0.0160	0.0421	0.0172	0.0097	0.0173			
2.84E+04	2059.39	0.0779	0.2312	0.0694	0.0156	0.0901	-0.4610	0.1247	0.0159	0.0420	0.0173	0.0096	0.0172			
2.84E+04	2059.42	0.0781	0.2315	0.0692	0.0156	0.0904	-0.4610	0.1250	0.0159	0.0420	0.0174	0.0096	0.0172			
2.85E+04	2059.46	0.0783	0.2324	0.0689	0.0156	0.0906	-0.4611	0.1255	0.0158	0.0421	0.0175	0.0095	0.0172			
2.85E+04	2059.51	0.0785	0.2335	0.0687	0.0156	0.0910	-0.4611	0.1261	0.0158	0.0422	0.0176	0.0094	0.0173			
2.85E+04	2059.54	0.0787	0.2348	0.0686	0.0156	0.0915	-0.4611	0.1266	0.0158	0.0424	0.0177	0.0094	0.0173			
2.85E+04	2059.60	0.0790	0.2366	0.0684	0.0156	0.0921	-0.4611	0.1272	0.0157	0.0427	0.0178	0.0093	0.0174			
2.85E+04	2059.60	0.0790	0.2369	0.0684	0.0156	0.0922	-0.4611	0.1273	0.0157	0.0427	0.0178	0.0093	0.0174			
2.85E+04	2059.64	0.0793	0.2385	0.0683	0.0156	0.0928	-0.4611	0.1276	0.0157	0.0429	0.0179	0.0093	0.0174			
2.85E+04	2059.70	0.0796	0.2407	0.0682	0.0156	0.0935	-0.4611	0.1280	0.0157	0.0432	0.0180	0.0092	0.0174			
2.86E+04	2059.72	0.0798	0.2417	0.0681	0.0156	0.0937	-0.4611	0.1282	0.0157	0.0434	0.0181	0.0092	0.0175			
2.86E+04	2059.76	0.0801	0.2433	0.0680	0.0156	0.0940	-0.4611	0.1286	0.0157	0.0436	0.0181	0.0092	0.0175			
2.86E+04	2059.81	0.0803	0.2456	0.0680	0.0156	0.0943	-0.4611	0.1290	0.0157	0.0438	0.0182	0.0091	0.0175			
2.86E+04	2059.85	0.0804	0.2473	0.0679	0.0156	0.0945	-0.4611	0.1294	0.0157	0.0440	0.0182	0.0091	0.0175			
Peak Value		7.1595	35.0376	6.4547	1.5741	8.1237	0.0000	10.5371	1.5927	3.5261	0.9775	0.8604	1.7788			

EXHIBIT 5

David Huntley, Ph.D.

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether :
("MTBE") : Master File C.A. No.
Products Liability Litigation : 1:00-1898
: MDL No. 1358 (SAS)
: M21-88

This document relates to the
following case:

Crescenta Valley Water District v.
Exxon Mobil Corp., et al.,
Case No. 07 Civ. 9453 (SAS)

NOVEMBER 8, 2010

Videotaped Deposition of DAVID HUNTLEY, Ph.D.,
VOLUME I, held at 600 West Broadway, Suite 1900,
San Diego, California, commencing at 9:34 a.m., on the
above date, before Kimberly S. Thrall, a Registered
Professional Reporter and Certified Shorthand Reporter.

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deps@golkow.com

1 Q. Okay.

2 A. What would be correct is that it looks like if
3 I didn't say anything about it, I messed up. It dropped
4 through the cracks.

5 Q. Okay. Well, then, I won't draw any favorable
6 inferences from that.

7 Well, let's talk about what Dr. Linkletter says
8 about the site at 6454 Foothill Boulevard. Are you
9 prepared to do that or --

10 A. Sure. Sure.

11 Q. -- do you want to take a minute or two and read
12 the two paragraphs?

13 A. Let me read the first paragraph.

14 Q. Okay. His first statement about the site is
15 that MTBE has impacted groundwater at this site, but
16 based on the available data, does not appear to be
17 migrating away from the immediate vicinity of the site.

18 Do you agree with that conclusion?

19 A. I agree with the conclusion that it has
20 impacted groundwater at the site. I don't
21 necessarily -- I don't agree with the conclusion that it
22 doesn't appear to be migrating away from the immediate
23 vicinity of the site.

24 Q. Where in your opinion is the MTBE at the former
25 ARCO site migrating to presently?

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1 A. Well, what my -- what my expert report says --
2 first of all, in my expert report, it puts that site
3 into that category of, I'll call it uncertain. And the
4 basis of that is that there are some very high
5 concentrations of MTBE in the underlying groundwater.
6 The -- but that when you look at the existing water
7 level contour maps that are generated in the series of
8 quarterly reports, they show a northwesterly direction
9 of groundwater flow, which would be away from the
10 Crescenta Valley municipal wells.

11 However, those measured groundwater flow
12 directions, i.e., measured groundwater elevations, are
13 only available since -- from 2004 on, and so we don't
14 have a -- we don't have any direct measurement of the --
15 of what's going on of the direction of groundwater flow,
16 say, between 1992, when MTBE was widely introduced,
17 and -- and 2004.

18 And -- and I was concerned about the
19 sensitivity of the direction of groundwater flow at that
20 location to small changes in the environment. That is,
21 this site is located effectively at a groundwater
22 divide, and the water table is -- the gradient is very
23 flat. The water table there is very, very flat,
24 indicating at those time periods, very low rates of flow
25 because of that gradient.

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1 But those -- those sorts of areas are very
2 sens- -- tend to be very sensitive to changes. You
3 raise the water table and -- and you --

4 Q. Okay.

5 A: -- can easily have a southerly groundwater flow
6 and that sort of thing. So that was -- that was my
7 concern and that's why it got left into the area of
8 uncertainty. And I simply concluded to myself that this
9 is a site that Stephen Wheatcraft needs to look at with
10 respect to modeling, because he -- the model has the
11 capability of seeing what might happen under different
12 groundwater flow regimes, under a higher water table
13 elevation than a lower, whatever was -- was there during
14 those earlier years.

15 Q. All right. Well, let me -- let's not spend
16 time, then, on Dr. Linkletter's report, and we'll go to
17 your report.

18 A. Okay.

19 Q. I think that maybe makes the most sense under
20 the circumstances.

21 Your report was marked as Exhibit 3. Do you
22 have that in front of you?

23 A. I do.

24 Q. Okay. And I have some questions about some of
25 the general conclusions, but let's just go to the

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1 Appendix D. It's Figure 14.

2 MR. COX: You know what -- what exhibit are we
3 on? Thank you. You can mark that page as Exhibit 7.

4 (Huntley Exhibit 7 was marked.)

5 MR. COX: You can make sure that what I'm
6 showing you is the same thing that you attached.

7 MR. MILLER: Do you have a copy?

8 MR. COX: Yeah.

9 MR. MILLER: What figure number is that? 14?

10 THE WITNESS: 14.

11 MR. COX: 14.

12 BY MR. COX:

13 Q. And is what I've marked as Exhibit 7, a blowup
14 of the April 2007 map that you referred to in your
15 expert report, Dr. Huntley?

16 A. I believe so, yes.

17 Q. Okay. And is this a map that shows the
18 groundwater flow at the site to the north/northwest?

19 A. Yes, for that date. Let's see. It says the
20 monitoring wells were gauged on April 3rd, 2007. So
21 it's a water level contour map for April 3rd, 2007.

22 Q. And is the groundwater level divide at this
23 site at the 1750 contour line, basically?

24 A. Well, this particular map -- on the regional
25 map, the water level divide is round the 1750 one. This

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1 map shows one contour, 1755. It actually shows -- in
2 Monitoring Well MW-21, it shows an elevation of 1756.
3 So in this particular map, the groundwater elevation
4 continues to increase a little bit to the south. And so
5 the divide would be --

6 Q. Moving south?

7 A. Would -- not moving, but would be further south
8 than is -- than is shown on this map.

9 Q. Okay. You mentioned a regional map. Is that
10 what we've marked as Exhibit 4?

11 A. Yes.

12 Q. And let me make sure I get this right. That
13 shows a groundwater divide at about 1750, correct?

14 A. Yeah, approximately. It shows -- there's two
15 contours labeled 1750. And to the south of the southern
16 contour label 1750, groundwater flow is, I'll just say,
17 to the south. And then to the north of that, the
18 regional map shows groundwater flow to the northwest.

19 Q. Are you the one who put the 1750 plus or minus
20 sign on Exhibit 4?

21 A. No. Where does it say --

22 Q. There's a 1750 contour. And then it looks like
23 somebody's --

24 A. Yeah. I --

25 Q. -- inserted 1750 plus or minus.

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1 A. -- of contamination around the station, which
2 again would sort of correspond to very little
3 groundwater flow or a mixed direction of groundwater
4 flow.

5 Q. Have you seen any data indicating that the
6 groundwater beneath the station flows to the south or to
7 the southeast?

8 A. I have not seen any water level contour maps
9 showing flow to the south or to the southeast.

10 Q. Have you seen any data indicating that the
11 groundwater beneath the station temporarily flows to the
12 north or northeast, and then in some sense loops back
13 towards the south or southeast?

14 A. I haven't seen anything like that. Again, my
15 concern is that this is so close to a groundwater
16 divide, and flow directions are very sensitive to things
17 like bedrock configuration and such. And so I -- I
18 really defer to someone that's looking at it much more
19 carefully, like Dr. Wheatcraft, and actually applying a
20 model to that area to assess what those flow directions
21 might be.

22 Q. Okay. Your report, same paragraph refers to
23 this regional water level contour map, Figure 6, as
24 "showing that the property at 6454 Foothill Boulevard is
25 located on or very near a groundwater divide with the

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1 independent at 2817 Honolulu that we don't have any --
2 any information about, any analyses of soil samples
3 and -- for MTBE and no groundwater analyses in the area.

4 BY MR. COX:

5 Q. Can you state to a reasonable degree of
6 scientific certainty that the MTBE concentrations that
7 have been observed in Well 8 are related to any of those
8 sites?

9 A. No. I -- I --

10 Q. Okay. That answers it.

11 A. No. I -- at this point, as I sit here, I can't
12 state specifically what the -- what the reason is. The
13 fact that the concentration there is higher, but that
14 you have intervening lower concentrations -- you know, I
15 mean, you -- you asked me to compare Well 11 and Well 8
16 and -- and I think that those are -- my interpretation,
17 my opinion is that those are separate issues. That --
18 that we're not somehow seeing stuff that's -- you know,
19 was in Well 5 getting down to Well 8 and bypassing all
20 of these other things, that that's the implication.

21 Q. Can --

22 A. I think these are separate issues.

23 Q. Okay. Good to know.

24 Can you rule out the former ARCO site as a
25 possible contributor to the MTBE that's being measured

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1 in Well 8?

2 A. That's a long ways away.

3 Q. Yes, it is.

4 MR. MILLER: Do you want him to estimate the
5 distance, or what?

6 BY MR. COX:

7 Q. Well, it's got to be three miles down there.

8 A. You know, that -- you know, I -- I hardly ever
9 say never, and I'm not going to say never in this case.
10 But at that point, I think you start having to talk
11 about fracture flow if you were going -- if you were
12 going to get there. And I -- at this point I would
13 certainly put it in the category of highly unlikely.

14 Q. Okay. How about the MTBE that's being measured
15 in Crescenta Valley Water District Well 6, 10, 12, that
16 complex, isn't it highly unlikely that the ARCO site is
17 the source of any of that MTBE?

18 MR. MILLER: Counsel, I believe we've been
19 collectively calling those wells and others in that same
20 area the Glenwood --

21 MR. COX: Okay.

22 MR. MILLER: -- wells --

23 MR. COX: Yes.

24 MR. MILLER: -- as shorthand.

25 ///

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1 BY MR. COX:

2 Q. Isn't it also highly unlikely that the former
3 ARCO site is contributing any MTBE to the Glenwood well
4 system?

5 A. Yes. I would -- the distance is such that it
6 would -- based on the information I have right now,
7 would -- would put it in the highly unlikely category.

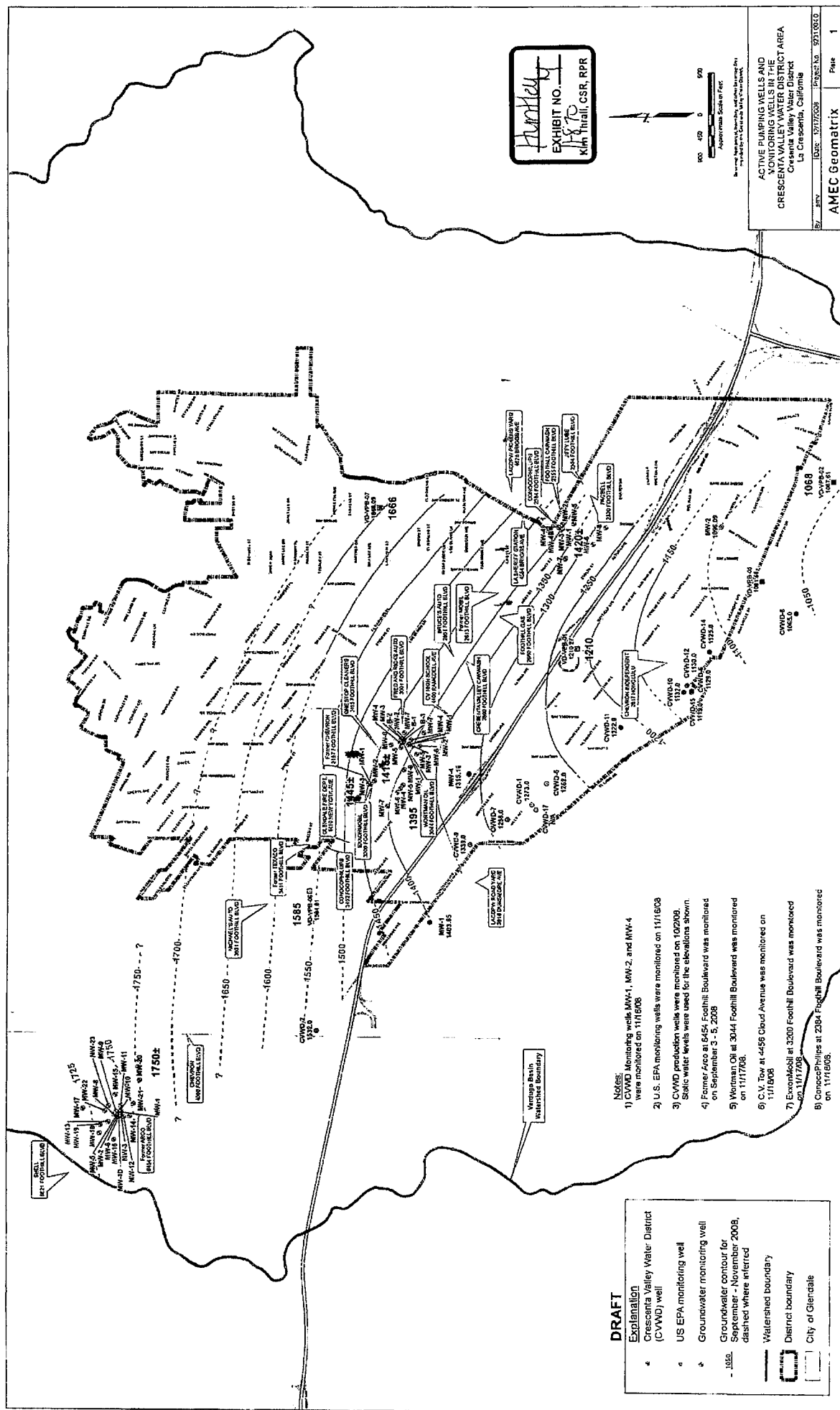
8 Q. And isn't it also highly unlikely that the
9 former ARCO site contributed measurable amounts of MTBE
10 to the contamination in Well 5?

11 A. That is where I would defer to Dr. Wheatcraft,
12 because that's going to be a function of where, for
13 example, Well 2 is in the flow regime. Is it -- is it
14 directly along a flow line at -- you know, at these very
15 low concentrations, in which case one would argue
16 that -- that Well 2 is the only one impacted by that
17 site, or is it off of that direct flow line towards the
18 edge of the thing? What does -- what does the alluvium
19 look like between those sites in terms of is there high
20 permeability conduits and very coarse gravels that form
21 a buried channel that -- between the sites?

22 You know, I -- I think it's certainly less
23 likely than the contributions at 3200 Foothill Boulevard
24 and 3044 Foothill Boulevard.

25 Q. Okay. Fair enough. As you probably

Figure 6. Map of Location of CWD Wells and Groundwater Elevation Contours - 11/17/2008.



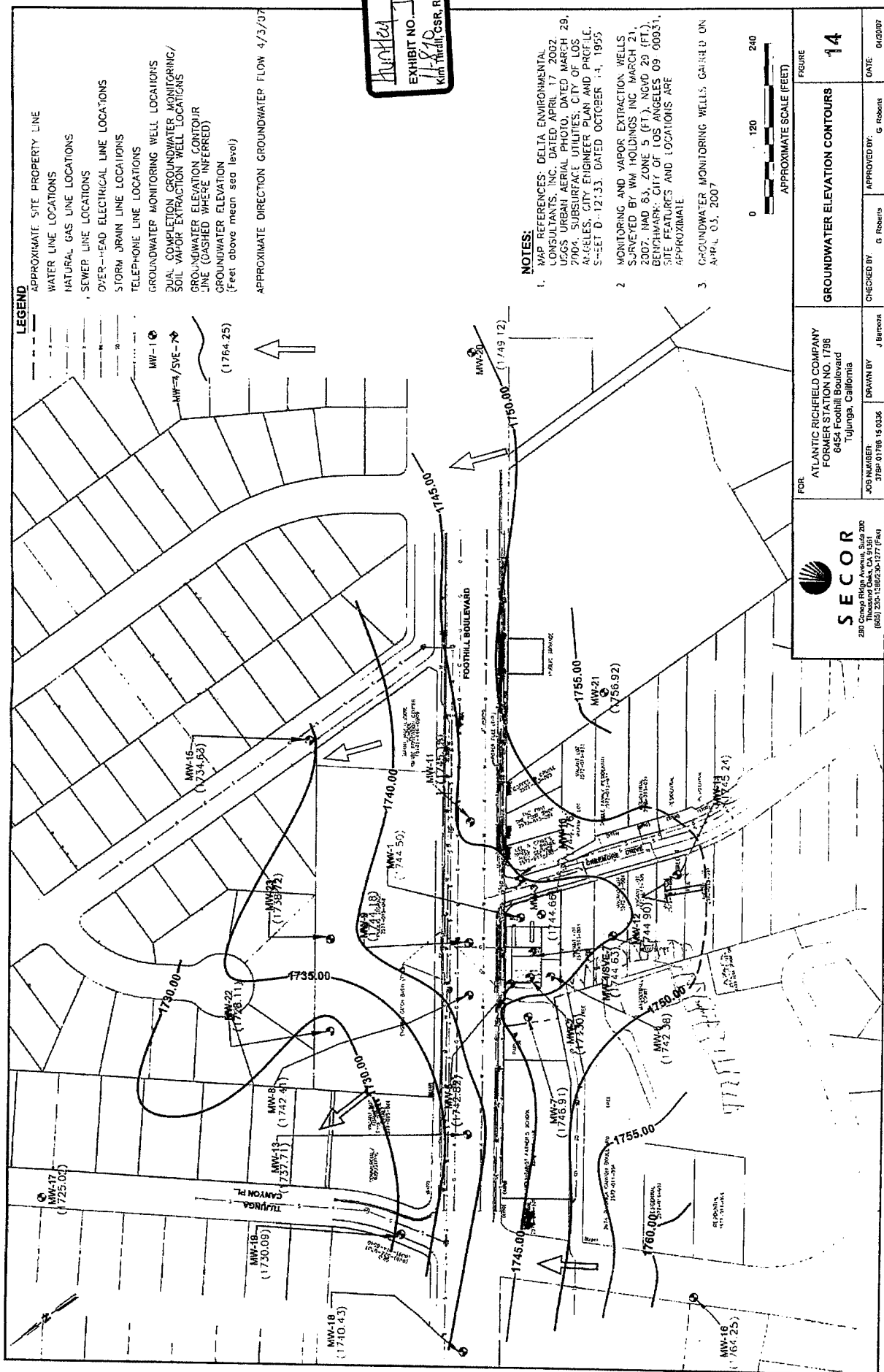


EXHIBIT 6

In The Matter Of:
IN RE: METHYL TERTIARY BUTYL ETHER

March 10, 2011

*SOUTHERN DISTRICT REPORTERS
500 PEARL STREET
NEW YORK, NY 10007
212 805-0330*

Original File 13AUMTBC.txt
Min-U-Script® with Word Index

EXHIBIT 6

IN RE: METHYL TERTIARY BUTYL ETHER

March 10, 2011

<p>13AUMTBC Page 1</p> <p>1 UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK 2 -----x</p> <p>3 IN RE: METHYL TERTIARY BUTYL 00 MDL 1358 ETHER ("MTBE") PRODUCTS Master File C.A. 4 LIABILITY LITIGATION No. 1:00-1898 (SAS)</p> <p>5 -----x</p> <p>6 March 10, 2011 7 New York, 8 11:10 a.m.</p> <p>9 Before:</p> <p>10 HON. SHIRA A. SCHEINDLIN District Judge</p> <p>11 APPEARANCES</p> <p>12 MILLER, AXLINE & SAWYER Attorneys for Plaintiff Crescenta Valley Water District 13 BY: DUANE C. MILLER</p> <p>14 ARNOLD & PORTER LLP Attorneys for BP Defendants 15 BY: LAWRENCE A. COX</p> <p>16 KING & SPALDING Attorneys for Defendant Chevron 17 BY: ROBERT MEADOWS</p> <p>18 ALSO PRESENT 19 BLANK ROME LLP 20 BY: JOHN J. DICHELLO, JR. 21 22 23 24 25</p>	<p>13AUMTBC Page 3</p> <p>1 it is one of each and I don't think that you want to split the 2 motion. That's the first problem. The motion about the 3 north/south divide, so to speak, seems to be extremely 4 case-specific and is not going to arise again.</p> <p>5 But I have to say, Mr. Cox, that it is not a minimal 6 motion, meaning it is a disputed issue of fact. It really is. 7 Your firm and you are very sophisticated. I don't think that 8 you can look at any court with a straight face and say there is 9 no disputed issue of material fact. It is completely disputed. 10 There is evidence on one hand that it is south with the flow, 11 and there is evidence on the other hand that it is north and it 12 is sitting right on this divide. It is extremely 13 fact-intensive. And I honestly don't think anybody could grant 14 summary judgment on that one, so I would rather spend my time 15 on the second one, and I would be happy to hear you.</p> <p>16 MR. COX: That's fine, your Honor, and let me just say 17 with a straight face, I do think this is a bit of a unique case 18 where you have, essentially, a conflict between plaintiff's own 19 experts.</p> <p>20 THE COURT: So what? Even that is sufficient to raise 21 a disputed issue of fact, although I think Mr. Miller would say 22 it is not. Even if there were, there is case law in the Second 23 Circuit -- maybe that's why you want it in the Ninth Circuit, I 24 don't know -- but you can have disputed issue of fact even 25 within the plaintiff's testimony, maybe in one of our</p>
<p>13AUMTBC Page 2</p> <p>1 (Case called)</p> <p>2 THE COURT: I have a letter dated February 25th from 3 Mr. Cox on behalf of BP and a March 4th letter from Mr. Boone 4 representing Crescenta Valley. And the issue is that BP is 5 ready to move for summary judgment or partial summary judgment 6 and this is the last step before trial. So it is time to get 7 this done and see if there is going to be a trial of the 8 Crescenta Valley case.</p> <p>9 The defendant, BP, says that the motion for summary 10 judgment or partial summary judgment should be heard in the 11 trial court in California. And plaintiff, Crescenta Valley, 12 says that the motion should be heard here in the MDL court.</p> <p>13 The decision of where a pending motion should be heard 14 in an MDL case is completely discretionary. That seems to be 15 the case law. There is some guidance in the case law in the 16 exercise of discretion, but I think it is almost impossible to 17 abuse one's discretion; it is just a matter of doing the right 18 thing. Some case law implies that if the issue is very unique, 19 that it is case-specific and doesn't call on any expertise that 20 the MDL court has built up, it is likely to go to the trial 21 court. On the other hand, if it raises issues that tend to 22 repeat over and over in the MDL court, it should stay in the 23 MDL court.</p> <p>24 Well, I have looked pretty closely at the issues that 25 BP is raising, and I have to say that, on first glance, I think</p>	<p>13AUMTBC Page 4</p> <p>1 employment cases or whatever. Even that can create an issue of 2 fact. So the fact that there may be conflicting testimony of 3 experts is irrelevant because he has evidence -- put aside the 4 one that you say is favorable to you -- there is nonetheless 5 evidence in the record that would support the plaintiff's 6 position that it is on the correct side of the divide -- 7 because I forgot which, north or south, but it is the correct 8 side of the divide -- and it is a disputed issue of fact, 9 how are you going to win?</p> <p>10 MR. COX: The other point would be, your Honor, that 11 the evidence that they are relying on is old and it comes from 12 a time period that is decades before MTBE gas station was sold 13 at the former ARCO gas station.</p> <p>14 THE COURT: But what does that matter when your point 15 is, it is north or south of a certain line, the direction of 16 the flow, upgrading or downgrading and these are questions of 17 fact?</p> <p>18 You can do that better than I, Mr. Miller, and should. 19 Would you please explain why there is a disputed issue of fact? 20 That is what I think it is on the first motion.</p> <p>21 MR. MILLER: Yes, your Honor.</p> <p>22 Whether it is computer modeling or the water master or 23 groundwater contouring that's been done for decades, all of the 24 evidence on the plaintiff's side, including Dr. Huntley's 25 testimony says that it does move to the south towards the</p>

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<p>13AUMTBC Page 5</p> <p>1 district wells and there's contamination in Well 2. And 2 Dr. Huntley says there is only one station it could come from, 3 the ARCO station. There is MTBE there. And certainly the 4 claim that the maps were old, what is uphill doesn't change. 5 THE COURT: That's what I am saying. There is an old 6 map of New York, but it still shows Wall Street and Battery 7 Park, where they are. It doesn't matter that they are old, 8 they are south of the Empire State Building. 9 MR. COX: The thing with the old maps -- and I will 10 sit down and move on -- is that they are based on data, to the 11 extent that it exists, that is a long ways from the groundwater 12 divide, those little dots on the old map, we can take a look at 13 them and now have them covered and -- 14 THE COURT: But that's not what courts do on summary 15 judgment. That's what factfinders do at trial. Those are 16 arguments to be made at trial. And, again, this could be a 17 winning argument at trial. I often say that to lawyers on 18 summary judgment. You may have a great winner, but a 19 factfinder has to reject the old evidence, so to speak. 20 MR. COX: I understand but -- 21 THE COURT: I don't think you should make that one 22 anywhere. 23 MR. COX: -- and let me say, the real purpose of 24 bringing this before the Court -- well, two purposes. One, 25 this is really a fact-intensive --</p>	<p>13AUMTBC Page 7</p> <p>1 MR. MILLER: I do, your Honor. 2 THE COURT: The one-page summary chart? 3 Did you say yes? You know the chart? 4 MR. MILLER: Yes. 5 THE COURT: So across the top of defendants' chart, it 6 says well numbers in bold and 1, 2, 3, 4 through 15, and 7 current MTBE levels are very low. And those current MTBE 8 levels, I was not sure whether that was testing done February 9 11th or December 10th but, anyway, it is extremely low numbers. 10 Then the second column going down the page shows that 11 in three dates at three of the wells, concentrations were found 12 at greater than 5 parts per billion. So I was kind of 13 interested in Well Number 5, just as a matter of curiosity. In 14 May of 2010, the summary chart shows actual reported 15 concentrations of more than 5 parts per billion, but by 16 February 11th, it was down to .28. Is that accurate? 17 MR. MILLER: Your Honor, Well 5 had 62 parts per 18 billion which is more than 4 times the primary MCL and 10 times 19 the secondary MCL, both of which prevented the district from 20 using the well. 21 THE COURT: That's all fine, but how can you establish 22 the .28 is my question, from May to February? 23 MR. MILLER: In the last few months, we had a hit of 24 over 3 parts per billion, and that's a level that the district 25 believes causes taste and odor problems and they don't want it</p>
<p>13AUMTBC Page 6</p> <p>1 THE COURT: I agree. If the first motion were the 2 only part of this thing, while I would use this record to try 3 hard to discourage you from bringing it, I would admit that I 4 think that that comment, the north/south debate -- not because 5 of the Civil War, but the north/south debate -- belongs in 6 California because it is so case-specific. That issue is not 7 common in the MDL, and it will never arise in any other case. 8 So I am ready to turn to the second one. But in case at the 9 end of the day I think the whole motion goes there, I am not 10 shy to tell that judge my view that this it is not summary 11 judgment anyway, and I want you to think about it hard. 12 MR. COX: Understand. 13 THE COURT: Let's turn to the other one because on the 14 other one I am a little more concerned that that might not be 15 so case-specific and that might raise issues that this Court 16 has dealt with and should deal with, so I want to make sure I 17 understand the second motion more, which I don't understand so 18 thoroughly right now. 19 It seems like the groundwater at the ARCO station 20 itself has been tested to be quite high, as high as 230 parts 21 per billion right there. But at the wells, it's been very low 22 and currently may be even non-detected. I think everyone on 23 the chart that defendants submitted that was based on 24 Dr. Wheatcraft's modeling. 25 You know the chart I am referring to, Mr. Miller?</p>	<p>13AUMTBC Page 8</p> <p>1 delivered to their customers. 2 THE COURT: That's all fine too, but you are not 3 answering my question. How did they get this .28 February 4 11th? That's what I am asking. It is a simple question. 5 MR. MILLER: It jumps around. 6 THE COURT: That's an answer. That's fine. Because 7 that was really a curiosity question on my part and now I know 8 the answer. 9 MR. COX: Your Honor, I don't think it is correct to 10 say it jumps around. 11 THE COURT: That is his answer. 12 MR. COX: The February 9th through 14th or 6th through 13 11th or whatever, there was an intense period of testing. 14 THE COURT: Yes. But then someone did a test that 15 showed 3 parts per billion. 16 MR. COX: Not during the five-day -- 17 THE COURT: No, but the day before or the day after. 18 That is Mr. Miller's point, it jumps around. There may have 19 been a test recently that shows 3 parts per billion. I don't 20 know if it was before those five days or after those five days. 21 It was only a curiosity question. It will not affect this 22 motion at all. I just wanted to learn how it could have gone 23 from greater than 5 parts per billion to as low as .28, and 24 Mr. Miller says recently it was 3 parts per billion -- 25 MR. COX: That was in October.</p>

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<p>13AUMTBC Page 9</p> <p>1 THE COURT: Be that as it may, I just wanted to</p> <p>2 understand.</p> <p>3 And then the lower third of this same chart talks</p> <p>4 about concentration at .5 parts per billion and gives the dates</p> <p>5 for that.</p> <p>6 Now, in the non-bold sections of this summary chart</p> <p>7 there is a column called "ARCO Station's Contributions Per</p> <p>8 Plaintiff's Model." And that is, I guess, Dr. Wheatcraft's</p> <p>9 projections of what he thinks is the percentage for the</p> <p>10 contribution due to the ARCO station?</p> <p>11 MR. COX: Correct.</p> <p>12 THE COURT: And that's really minuscule according to</p> <p>13 this model and according to the summary of the charts, the</p> <p>14 numbers are so small I can barely repeat them. I don't know</p> <p>15 how to say them, but they are very, very tiny. So much for</p> <p>16 Wheatcraft.</p> <p>17 But the point of the motion then is whether BP can</p> <p>18 have any liability at such very low levels, and I have some</p> <p>19 specific questions to help me understand the motion. So, for</p> <p>20 example, with Well Number 2 where Dr. Wheatcraft says that the</p> <p>21 ARCO station is the only source of contamination in Well Number</p> <p>22 2, I thought this one had been offline since 1976 anyway and</p> <p>23 had not been used to supply drinking water. And if that's</p> <p>24 true, does plaintiff have any damages here?</p> <p>25 MR. MILLER: Can I explain?</p>	<p>13AUMTBC Page 11</p> <p>1 spending millions of dollars buying surface water. Now,</p> <p>2 admittedly, there were many wells like the one I mentioned,</p> <p>3 Well 5, that had much higher levels.</p> <p>4 THE COURT: Just talk about 2 for a minute. The</p> <p>5 argument is that you were damaged because you didn't have the</p> <p>6 option of using it as an alternative source of water supply</p> <p>7 because there was MTBE in it?</p> <p>8 MR. MILLER: Yes, and it was in all of the wells as</p> <p>9 well.</p> <p>10 THE COURT: So the damages were the costs of the</p> <p>11 alternative source of water?</p> <p>12 MR. MILLER: Correct.</p> <p>13 THE COURT: That was one question that I had.</p> <p>14 MR. MILLER: If it helps your Honor, we are not taking</p> <p>15 the position that the ARCO station contaminated Well 8 which is</p> <p>16 the well furthest away.</p> <p>17 THE COURT: I know on 8 --</p> <p>18 MR. MILLER: -- we never made the claim.</p> <p>19 THE COURT: And you are not opposing summary judgment,</p> <p>20 to the extent that you made a claim --</p> <p>21 MR. MILLER: -- as to ARCO</p> <p>22 THE COURT: -- as to ARCO as to 8. I knew that.</p> <p>23 MR. COX: I don't mean to interrupt, but it is not</p> <p>24 correct that Well 2 has had detections at or above 1 part per</p> <p>25 billion. It has been close. It never has. It has been</p>
<p>13AUMTBC Page 10</p> <p>1 THE COURT: That's why you came from California.</p> <p>2 That's why you are here. That's why there is a record. So you</p> <p>3 don't need to ask that.</p> <p>4 MR. MILLER: We have a situation where MTBE has been</p> <p>5 detected in every single well the Crescenta Valley Water</p> <p>6 District operates. They have had levels of MTBE in Well 2 of</p> <p>7 more than a part per billion historically.</p> <p>8 THE COURT: More than 1 part per billion, you say?</p> <p>9 MR. MILLER: Yes. Since we spent millions of dollar</p> <p>10 purchasing surface water instead of pumping the wells, the</p> <p>11 argument is going to be, you could have pumped this other well,</p> <p>12 Well 2, and the reason you didn't is it has nitrates.</p> <p>13 THE COURT: Who is "you"?</p> <p>14 MR. MILLER: You, the district.</p> <p>15 THE COURT: Go ahead.</p> <p>16 MR. MILLER: So you are claiming millions of dollars</p> <p>17 for alternate water supplies, and you have a problem with</p> <p>18 nitrate in Well 2. You are asking us to pay for a nitrate</p> <p>19 problem. You could have pumped that well. That was a</p> <p>20 reasonable alternative available to you.</p> <p>21 THE COURT: And "pump that well" means what?</p> <p>22 MR. MILLER: Delivering water to customers.</p> <p>23 THE COURT: OK.</p> <p>24 MR. MILLER: We would respond to that claim very</p> <p>25 directly. It had MTBE in it as well during the time we were</p>	<p>13AUMTBC Page 12</p> <p>1 offline for nitrates since 1976. It is not our contention that</p> <p>2 they should have operated Well 2. It is our contention that we</p> <p>3 are not responsible for any injury to Well 2 because it has</p> <p>4 been offline since 1976, and their own damages expert doesn't</p> <p>5 attribute any treatment costs to that well --</p> <p>6 THE COURT: No. He is not claiming treatment costs.</p> <p>7 You just heard his answer on damages.</p> <p>8 MR. COX: That was as to 8.</p> <p>9 THE COURT: No. Well 2. I asked him, what are your</p> <p>10 damages? He said, if it didn't have MTBE, we could have used</p> <p>11 it to supply water. We didn't because it had MTBE. We know it</p> <p>12 had nitrates. We know about that problem. We would have</p> <p>13 treated, but there was no point because it had MTBE, so we had</p> <p>14 to buy water all of those years.</p> <p>15 Some of the facts are agreed.</p> <p>16 He knows it has been offline since 1976.</p> <p>17 He knows it had nitrates.</p> <p>18 He said it had MTBE at or about 1 part per billion for</p> <p>19 all of those years.</p> <p>20 He knows it is offline.</p> <p>21 And he knows there is no treatment costs. He knows</p> <p>22 it. He says that the costs is that he had to use an</p> <p>23 alternative water supply instead of this one. That's what I</p> <p>24 heard.</p> <p>25 My other question was, were you trying to sue,</p>

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<p>13AUMTBC Page 13</p> <p>1 Mr. Miller, for potential harm that has not happened yet, 2 because I gathered your expert expects that MTBE will impact 3 certain wells that it has not impacted yet from the ARCO 4 station? 5 MR. MILLER: No, your Honor. 6 The way it works is this. The ARCO station is kind of 7 at the top of the hill and there are wells that are literally 8 in a line. And they are all in the wash, because that's where 9 the water is, so it hits them one at a time. Some of the wells 10 have current contamination, and ARCO impacts them during the 11 period of time they are being treated because there is a period 12 of about 40 years when we expect contamination in these wells. 13 So the defendants who are contaminating them today are 14 responsible for part of the damage and the treatment won't be 15 taken offline and ARCO will hit them in future years. And the 16 jury will be asked to consider who should pay for the full cost 17 of treatment, and the ARCO plume is going through -- 18 THE COURT: Sometimes you answer much more than I ask, 19 and then I don't follow the answer. If you can limit yourself 20 to what I ask, I probably would understand it better. 21 So, for example, a hypothetical -- making up a 22 hypothetical -- there is a well down the line -- you say they 23 are in a line -- towards the end of the line is a well that has 24 never been hit. You expect it to be hit sometime in the next 25 20 to 40 years. Are you seeking damages now for that expected</p>	<p>13AUMTBC Page 15</p> <p>1 and the method detection limit. And it may be unclear, but the 2 method detection limit seems to be where you actually do a 3 physical sample of dirt or water or something, but these are 4 models? Wheatcraft is dealing with projections? 5 MR. COX: Let's start with California and MTBE 6 metrics. And the Court is probably familiar with this, but 7 there is a threshold for health purposes of greater than 13 8 parts per billion. And then there is a taste and odor 9 threshold which is a number greater than 5 parts per billion. 10 THE COURT: Right. Go ahead. 11 MR. COX: Then there's the threshold at which you have 12 to report to the state if you had a detection in your well. 13 THE COURT: And that is the half part per billion. 14 MR. COX: That is correct. 15 And then there is the method detection limit. For 16 example, your Honor, if you look at Exhibit E which is the 17 recent pump test of February 9 through February 14, there was a 18 mobile lab out there and they did multiple, multiple samples 19 with a method detection limit of .25 parts per billion, and 20 basically they didn't detect anything in the entire well 21 system. 22 THE COURT: What did you tell me about .25 parts per 23 billion? 24 MR. COX: .25 parts per billion was the method 25 detection limit that that mobile lab utilized. In other words,</p>
<p>13AUMTBC Page 14</p> <p>1 hit? 2 MR. MILLER: No. The well has been hit. 3 THE COURT: Stick with my hypothetical, please. So 4 there is a well down the line that has never been hit. Your 5 expert expects it will be hit 20 to 40 years from now. Are you 6 seeking damages for that well? 7 MR. MILLER: No. It is not ripe. 8 THE COURT: We agree. Until it has been hit, you are 9 not asking for money damages? 10 MR. MILLER: Correct. 11 THE COURT: That takes care of something. 12 You are only seeking damages for wells that have been 13 hit already? 14 MR. MILLER: Yes. 15 THE COURT: No matter at what low level, because you 16 believe that level will go up anyway? 17 MR. MILLER: And because the levels historically have 18 been high. 19 THE COURT: At all of the wells down the chain, they 20 have been higher than they might be today? 21 MR. MILLER: Correct. 22 THE COURT: That is helpful. 23 So what is the issue on the proposed partial summary 24 judgment, Mr. Cox? I am not sure I understand that. I saw 25 this business about the DLOR, the detection limit for reporting</p>	<p>13AUMTBC Page 16</p> <p>1 even though you don't have to report it to the state, you might 2 be able to detect it if it is above .25 parts per -- 3 THE COURT: But they didn't get any above .25? 4 MR. COX: That's correct. 5 But then they sent the samples to another lab, a lab 6 called BC Labs, and they claim to have a .11, 0.11 method 7 detection limit, so there were some detections -- 8 THE COURT: So what was sampled, actual dirt, water? 9 MR. COX: The water coming out of the drinking wells, 10 each of the drinking wells. 11 THE COURT: So in that water there was actually 12 samples, and it turned out that it was a detection of .11? 13 MR. COX: Yeah. That row on Exhibit G, current MTBE 14 levels -- 15 THE COURT: Yes. 16 MR. COX: -- if you look at that, you will see that 17 the results range between non-detect on one end and .71 on the 18 other end. And they are getting results like .91 PPB or 19 .2-whatever PPB. It is because they are using, they claim -- 20 although I think there is some debate over whether they are 21 actually detecting anything -- 22 THE COURT: Who is the "they"? 23 MR. COX: The non-mobile testing lab that the district 24 used for the pump test. 25 Why is all that important?</p>

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<p>1 Well, the chart, and Mr. Miller claims that the case</p> <p>2 is about past hits and past contamination. It is not about</p> <p>3 future hits.</p> <p>4 THE COURT: I asked specifically and he gave a clear</p> <p>5 answer. He is not suing for hits that have not yet happened.</p> <p>6 MR. COX: If you look at the hits that have happened</p> <p>7 historically in these wells -- take Well 5, for example,</p> <p>8 historically, it's been above .5 PPB between January 2008 and</p> <p>9 June 2010. The reason that I put this chart together and made</p> <p>10 you guys partially go blind looking through the Wheatcraft data</p> <p>11 is, the Wheatcraft model itself for the ARCO station only</p> <p>12 confirms that during that time period where Well 5 was hit at</p> <p>13 levels above .5 PPB, the former ARCO station's contribution to</p> <p>14 that was .0001 to .0562 PPB.</p> <p>15 THE COURT: So let's go from size to law. So your</p> <p>16 argument is, at that level, it is too low to warrant a trial on</p> <p>17 damages or liability or anything; it is just too low?</p> <p>18 MR. COX: Yes, your Honor. Because it is below a</p> <p>19 level that even the lab that they employ to detect MTBE can</p> <p>20 detect.</p> <p>21 THE COURT: But they didn't measure ARCO's</p> <p>22 contribution?</p> <p>23 MR. COX: They modeled ARCO's contribution.</p> <p>24 THE COURT: They measured what was in the water?</p> <p>25 MR. COX: Exactly. And, of course, we dispute all</p>		<p>1 But the thrust, your Honor, of our partial summary</p> <p>2 judgment motion would be for the Court to rule, fine,</p> <p>3 Mr. Miller, as to the Atlantic Richfield station, certain</p> <p>4 wells, past hits are out of the case --</p> <p>5 THE COURT: -- because it is --</p> <p>6 MR. COX: -- because your own model's conclusion show</p> <p>7 either zero as the ARCO station's contribution or levels that</p> <p>8 are below the method detection --</p> <p>9 THE COURT: We finally got to it. That's what I am</p> <p>10 trying to say. When it is zero, I already have the concession.</p> <p>11 If his own expert says zero, it is out of the case. Mr. Miller</p> <p>12 just said so on this record.</p> <p>13 MR. COX: As I understand the Wheatcraft model -- and</p> <p>14 you have to keep in mind that the ARCO station is a long, long</p> <p>15 way from these wells -- so what he has modeled is increasing</p> <p>16 levels of contamination off in decades to come. So the partial</p> <p>17 summary judgment that we are looking for would be as to BP and</p> <p>18 these wells. There is no liability for past contamination.</p> <p>19 Regardless of when the case goes to trial, there is no</p> <p>20 liability for past contamination.</p> <p>21 THE COURT: And the reason is because the number is so</p> <p>22 low.</p> <p>23 MR. COX: It is either zero or below.</p> <p>24 THE COURT: We covered zero. I don't want to cover</p> <p>25 zero. But it might be .0001 or something so infinitesimal, you</p>	
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<p>1 kinds of things about the Wheatcraft model.</p> <p>2 THE COURT: For sure. But even if you accept their</p> <p>3 number --</p> <p>4 MR. COX: If you take that at face value, and you say,</p> <p>5 OK, Wheatcraft, with all the deficiencies in your model, here's</p> <p>6 what you come up --</p> <p>7 THE COURT: I am following, but just trying to switch</p> <p>8 from science to law. You take this tiny little number,</p> <p>9 .00-something and you argue summary judgment as a matter of</p> <p>10 law, that's just too low to be actionable.</p> <p>11 MR. COX: Or zero, a lot of our stations according to</p> <p>12 the Wheatcraft model are zero --</p> <p>13 THE COURT: Well, if plaintiff's own expert says</p> <p>14 zero -- Mr. Miller, to the extent your own expert says zero --</p> <p>15 MR. MILLER: That is not a claim.</p> <p>16 THE COURT: Zero is not a claim, you just said?</p> <p>17 MR. MILLER: Correct, zero is not a claim.</p> <p>18 MR. COX: But the distinction is between zero at the</p> <p>19 time of the hit, which is what this chart shows, and zero in</p> <p>20 the past and forever more which is what Dr. Wheatcraft modeled</p> <p>21 for Well 8. So when Mr. Miller stands up and says --</p> <p>22 THE COURT: Well 8 is out of the picture.</p> <p>23 MR. COX: Well 8 is out of the picture because there</p> <p>24 has been no showing that in the past and no showing for the</p> <p>25 next 50 years that it will contribute anything. That's fine.</p>		<p>1 just say, as a matter of law, that is not a case.</p> <p>2 MR. COX: That is part of what we are saying as well.</p> <p>3 It is important to BP that when the case goes to</p> <p>4 trial, the jury understands what BP is and is not potentially</p> <p>5 liable for.</p> <p>6 THE COURT: Of course it is important. It is</p> <p>7 important to Mr. Miller too to know the case he is going to be</p> <p>8 permitted to try.</p> <p>9 But, in any event, my point is only that that has been</p> <p>10 a fairly common issue in the MDL which is how minuscule is</p> <p>11 enough to proceed to trial. Is it ever minuscule enough to be</p> <p>12 ruled out as a matter of law? Now, zero we don't have to</p> <p>13 debate. Mr. Miller says, I agree, zero is zero. It is not a</p> <p>14 case, but I don't know his position on .001.</p> <p>15 MR. COX: It looks like we are talking about Well 5</p> <p>16 and 2 because --</p> <p>17 THE COURT: Right.</p> <p>18 MR. COX: -- all the other wells that Dr. Wheatcraft</p> <p>19 has modeled concentrations from the ARCO station for as it</p> <p>20 relates to past hits are at zero, your Honor.</p> <p>21 THE COURT: I think that's right. Isn't it just 2 and</p> <p>22 5, Mr. Miller?</p> <p>23 MR. MILLER: I thought that we were only discussing 2</p> <p>24 and 8. If we need to discuss 5, I am certainly ready to do it.</p> <p>25 But from my reading of this brief, 5 was not in play.</p>	

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<p>13AUMTBC Page 21</p> <p>1 THE COURT: I thought it was. Not in play, you didn't</p> <p>2 think that they were moving as to 5?</p> <p>3 MR. MILLER: That's correct.</p> <p>4 THE COURT: I thought he was, 2 and 5; that was my</p> <p>5 understanding.</p> <p>6 MR. MILLER: Here is the situation. He is talking</p> <p>7 about data that isolates only ARCO.</p> <p>8 THE COURT: That's correct. Well, that's where his</p> <p>9 stuff is. No?</p> <p>10 MR. MILLER: No. The situation is that there were 29</p> <p>11 service stations investigated. Six are major sources. ARCO is</p> <p>12 one of them. They contributed some, but he is not showing you</p> <p>13 the concentration in the well. He is saying, this is</p> <p>14 Dr. Wheatcraft's interpretation of the percentage.</p> <p>15 THE COURT: Wheatcraft is your expert?</p> <p>16 MR. MILLER: Correct. He is one of the experts.</p> <p>17 Dr. Huntley said, for example, for Well 2, it is ARCO only.</p> <p>18 THE COURT: So ARCO is 100 percent responsible for</p> <p>19 whatever the detect is at Well 2?</p> <p>20 MR. MILLER: At Well 2.</p> <p>21 At Well 5, we have multiple --</p> <p>22 THE COURT: Let's stick with that for a minute.</p> <p>23 MR. COX: The chart discusses that, your Honor. The</p> <p>24 chart reflects the fact that there were detections in Well 2</p> <p>25 between October 2006 and February of 2007.</p>	<p>13AUMTBC Page 23</p> <p>1 says, period of reported concentrations greater than .05</p> <p>2 October '06 to February '07. He doesn't say what they are.</p> <p>3 THE COURT: What do you mean "what they are"?</p> <p>4 MR. MILLER: The measurements in the well --</p> <p>5 THE COURT: It doesn't matter, they are more than .5</p> <p>6 parts per billion?</p> <p>7 MR. MILLER: That's correct.</p> <p>8 THE COURT: But he still says ARCO's contributions</p> <p>9 during the same time frame, I gather, is .0018 to .0077.</p> <p>10 MR. MILLER: But Dr. Huntley says 100 percent of the</p> <p>11 contribution was measured higher than that.</p> <p>12 THE COURT: Higher than?</p> <p>13 MR. MILLER: Up to a part per billion, more or less,</p> <p>14 in Well 2 during that period of time. And he agrees in his</p> <p>15 chart it was above .5. Dr. Huntley says 100 percent came from</p> <p>16 ARCO.</p> <p>17 THE COURT: I see that's a conflict between Huntley</p> <p>18 and Wheatcraft.</p> <p>19 MR. MILLER: Well, Dr. Wheatcraft will tell you, for</p> <p>20 various reasons that, during this period of time, the model is</p> <p>21 not doing as good a job as he would like on this particular</p> <p>22 well and he has an explanation.</p> <p>23 THE COURT: OK. But the legal question is still how</p> <p>24 low is too low. Isn't that it?</p> <p>25 MR. COX: That is one of them.</p>
<p>13AUMTBC Page 22</p> <p>1 THE COURT: Of more than .5 parts per billion?</p> <p>2 MR. COX: That's right.</p> <p>3 THE COURT: But then it says ARCO's contribution on</p> <p>4 the Wheatcraft model is between .0018 and .0077.</p> <p>5 MR. COX: That's what his model says.</p> <p>6 THE COURT: I don't understand how it is the only</p> <p>7 source of the greater than .5 if your expert says its</p> <p>8 contribution is down to that little infinitesimal number.</p> <p>9 MR. MILLER: There is a portion of Dr. Wheatcraft's</p> <p>10 report -- unfortunately, it is not attached to our papers --</p> <p>11 and it explains that in Dr. Wheatcraft's opinion, ARCO</p> <p>12 contributed a detectable level of MTBE to the district wells,</p> <p>13 all of them, except 8.</p> <p>14 THE COURT: I know, but the number on 2, he says it is</p> <p>15 between .0018 and .0077. And yet in your reported</p> <p>16 concentrations between October '06 and February '07, it is</p> <p>17 greater than .5 parts per billion.</p> <p>18 Where you are losing me is, you say, ARCO is the only</p> <p>19 source of contamination at 2 which reported more than .5, then</p> <p>20 why does Wheatcraft say that the contribution from the ARCO</p> <p>21 station is at or more than .5 is a little as .0018? I am lost.</p> <p>22 Where is the rest of it coming from?</p> <p>23 MR. MILLER: Again, I was explaining Dr. Huntley's</p> <p>24 position that all that came from ARCO. That is also</p> <p>25 Dr. Wheatcraft's position. The measured concentrations -- he</p>	<p>13AUMTBC Page 24</p> <p>1 THE COURT: What is the other?</p> <p>2 MR. COX: The other one is, assuming that you have a</p> <p>3 modeler like Dr. Wheatcraft who claims to be able to model the</p> <p>4 impact of the ARCO station on Well 2, and you look at pages 133</p> <p>5 and 134 of his model runs and his model shows those very, very</p> <p>6 low rates, can you create an issue of fact by saying, oh, he</p> <p>7 didn't mean it, we have to rely on Dr. Huntley.</p> <p>8 I guess the way that I would frame this is, we are</p> <p>9 assuming the truth and admissibility and accuracy of the</p> <p>10 Wheatcraft for purposes of this motion, and that's it.</p> <p>11 THE COURT: And then saying, it's too low.</p> <p>12 MR. COX: I mean, yes, your Honor.</p> <p>13 THE COURT: So the question of what is too low to be</p> <p>14 actionable, that's my only point that has been common</p> <p>15 throughout the MDL. It is not California specific. The</p> <p>16 numbers might be California specific, but the concept we have</p> <p>17 had over and over again. Is there a sort of de minimis point</p> <p>18 that is not actionable? And that's been a common issue that I</p> <p>19 think the MDL court should address because it has come up</p> <p>20 repeatedly.</p> <p>21 But the other issue which I urge you not to bring at</p> <p>22 all was very California specific, the north/south divide.</p> <p>23 Nobody will be happy if it is two different courts, one for</p> <p>24 each issue. What should I do? I seek advice.</p> <p>25 I think that the first issue is definitely California</p>

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<p>13AUMTBC Page 25</p> <p>1 specific, but I don't think that it should be brought. But the 2 second issue, I think, is generic -- while different in its 3 specifics, conceptually, it is generic. 4 What is your view, Mr. Miller? 5 MR. MILLER: Your Honor, my view is that that is an 6 important issue for the MDL. And you have ruled on it in the 7 past and determined that levels below the MCL under certain 8 circumstances can represent a claim. 9 And part of the problem is that, when we are dealing, 10 for example, with Well 5, if you have six contributors and they 11 are adding some, that is a jury's decision on whether or not 12 that additional burden is a factor from the causation 13 standpoint under California law. 14 I believe that's a jury issue. And the jury would be 15 looking at the full concentration, which is not what is set 16 forth here. And then they would be analyzing, OK, is ARCO a 17 significant part of that? Otherwise, with 26 potential 18 contributors, each one contributes 1 or 2 percent and they all 19 get off, that doesn't make any sense. 20 THE COURT: That is certainly the merits argument. 21 But the bottom line, you didn't answer my question in a way. 22 My question is, what do I do with the fact that half of this 23 motion, so to speak, I think, should be in California and the 24 other half, I think, should be here? And should I separate 25 them if he really brings that upstream and downstream thing, he</p>	<p>13AUMTBC Page 27</p> <p>1 actionable under certain circumstances, I have said yes, but 2 that is not the same as saying this is so de minimis, so 3 unmeasurable, so tiny that, as a matter of law, it should be 4 gone. But then Mr. Miller comes back and says, well, if you 5 have 26 and everybody is so low, then nobody is liable. 6 It is interesting, but I haven't gotten there. It is 7 the other half that worries me, which I think is the 8 south/north and up and downgrading and all of that. I really 9 don't want to do that motion, nor do I think that you should 10 bring it. It doesn't belong in an MDL. And I don't think that 11 you should be in two places at once. 12 Maybe what I should do is take up the de minimis 13 motion for a minute, have that briefed, have that decided. 14 Regardless of the outcome, since it is only a partial summary, 15 then send the case back and you will still make your motion, if 16 you think you can make it with a straight face if there is a 17 disputed issue of fact. And you will make it there. I am not 18 doing it here. I don't want to do it and I don't think that it 19 should be brought. 20 MR. COX: That is perfectly fine, your Honor. Let me 21 make sure I understand what the de minimis motion is. 22 THE COURT: Your partial summary judgment motion that 23 we just talked about, that it is too infinitesimal to support a 24 claim, in one sentence. 25 MR. COX: As to the ARCO station only and as to the</p>
<p>13AUMTBC Page 26</p> <p>1 should bring in California because it won't conflict with 2 anything I ever ruled because it is completely case specific. 3 I don't know if you can be in two places at once in one case. 4 I don't even know if you can do that. Can you give the case 5 back to that judge or you don't -- I don't know that a case can 6 be in two places. 7 MR. MILLER: I just think it makes more sense to get 8 it over with and do it as a single motion. 9 THE COURT: I don't want to deal with the south/north, 10 but go ahead. 11 MR. COX: Let me say that I am not opposed in any way 12 to the court looking at the infinitesimally small concentration 13 issue, but please bear in mind that this case is really very 14 unique in a couple of respects. 15 One is, usually you don't have a modeler like 16 Dr. Wheatcraft saying, you know what, after all of these 17 defendants, I am going to choose the ARCO station and I am 18 going to separately model it for reasons that have to do with 19 trial strategy. And I have never seen that before. So it is 20 not likely to come up again. That is point 1. 21 THE COURT: But the legal issue is, my contribution is 22 so infinitesimal that I should be let out as a matter of law. 23 That may be right. The motion is not briefed and I have not 24 thought about it. While Mr. Miller is right that I have 25 already ruled on whether a hit below New York's MCL can be</p>	<p>13AUMTBC Page 28</p> <p>1 concentrations from the Wheatcraft from the ARCO station -- 2 THE COURT: I am not telling you what motion to make, 3 and that's the one that you presented at this premotion 4 conference. 5 Does BP have potential liability other than through 6 the ARCO station? 7 MR. COX: No, your Honor. 8 THE COURT: Then you are not making any other motion 9 to any other source. Your only source is the ARCO station. So 10 why are you asking me? That is the motion that you have. 11 As far as the Wheatcraft modeling, you know what the 12 response is going to be. Mr. Miller told us in the premotion 13 conference. He said, you cannot limit the motion artificially 14 to Wheatcraft, I have Huntley, and Huntley says -- at least 15 with respect to Well 5 -- that ARCO is the only source of that 16 well. So regardless of the fact that Wheatcraft says their 17 personal liability is .002, the fact is, it tested greater than 18 .5, it is all ARCO. That is what he is going to say -- I am 19 not saying that, he is saying that. I am summarizing 20 Mr. Miller's claim. 21 Then you can come back as a matter of law and say you 22 cannot have experts taking different views on the same side, 23 that doesn't create a fact dispute. And you will cite cases, 24 and if you are right, you will win --at least on that point. 25 MR. COX: That is as to Well 5 and Well 2. And</p>

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<p>13AUMTBC Page 29</p> <p>1 putting those to one side, the motion also contemplated that we 2 would be relying upon the Wheatcraft model for the zero 3 concentrations and --</p> <p>4 THE COURT: You don't need to. Twice on this record, 5 Mr. Miller says, I am not suing when it is zero. If my own 6 expert says zero, you win. I am not going there right now. 7 Someday it may be different, I have a ripe claim and I will 8 bring it. If it is zero, it is zero. You might want to talk 9 to him later about getting some kind of agreement in writing, 10 but that's what he said on the record.</p> <p>11 MR. COX: I appreciate that, your Honor, and that 12 helps me understand the framework and the parameters of the 13 partial summary judgment motion.</p> <p>14 THE COURT: Why is it partial? If you win this -- I 15 will call it a de minimis motion -- what is left?</p> <p>16 MR. COX: Well, we could win it as to some wells and 17 lose it as to other wells.</p> <p>18 THE COURT: How many wells were in the motion? I 19 thought it was just still 2 and 5. What do you folks think? I 20 don't know your cases.</p> <p>21 MR. COX: Yeah. That's how I would view it, your 22 Honor.</p> <p>23 THE COURT: It is just 2 and 5?</p> <p>24 MR. COX: Just 2 and 5 since the zeros are no longer 25 part of the case based on Wheatcraft and --</p>	<p>13AUMTBC Page 31</p> <p>1 your Honor, if you go page by page --</p> <p>2 THE COURT: Shouldn't be in dispute.</p> <p>3 You are grownups. You can talk to each other. You 4 are sophisticated. You can see if you can propose a 5 stipulation that says, our reading of Wheatcraft, that this, 6 this and this is zero. Do you agree that these are not 7 actionable at this time? If he has a different understanding 8 of what Wheatcraft said, he will negotiate. You will talk to 9 each other.</p> <p>10 All right. I think that we resolve it and make a 11 schedule and get it done.</p> <p>12 When do you want to move in?</p> <p>13 MR. COX: Within 30 days, your Honor.</p> <p>14 THE COURT: Do you want to pick a date certain or do 15 you want 30 days? Is that what you are saying, translation?</p> <p>16 MR. COX: Yes.</p> <p>17 THE COURT: Nobody ever wants to move quickly.</p> <p>18 MR. COX: We are making progress, your Honor.</p> <p>19 THE COURT: I don't know what that meant. That was a 20 throwaway line.</p> <p>21 Want to make it three weeks. Today is the 10th, March 22 31.</p> <p>23 MR. COX: Yes, your Honor.</p> <p>24 THE COURT: March 31.</p> <p>25 I know Mr. Miller is anxious to get back to California</p>
<p>13AUMTBC Page 30</p> <p>1 THE COURT: If you won on 2 and 5, what is left?</p> <p>2 MR. COX: I would say nothing.</p> <p>3 THE COURT: Then why is it partial summary judgment?</p> <p>4 MR. COX: Because we could win on one and not on the 5 other.</p> <p>6 THE COURT: True. Then it is really a motion for 7 summary judgment --</p> <p>8 MR. COX: Or in the alternative, yes.</p> <p>9 THE COURT: I think that we should do it and do it 10 quickly and then, depending on if there is a case left, the 11 north/south issue is California all the way.</p> <p>12 MR. COX: Thank you, your Honor.</p> <p>13 THE COURT: Consider it done and get ready for trial.</p> <p>14 Do you think it is more than 2 and 5, Mr. Miller, 15 because you conceded that zero is not a case. Wheatcraft said 16 zero.</p> <p>17 MR. MILLER: Your Honor, the way he has presented the 18 data in this table is very selective as to time periods. I am 19 looking at what he is saying --</p> <p>20 THE COURT: "He"?</p> <p>21 MR. MILLER: What counsel for BP is saying, Mr. Cox. 22 I am not going to take a position if my experts say it is zero 23 that that's a claim.</p> <p>24 THE COURT: OK.</p> <p>25 MR. COX: Well, that's what the model results show,</p>	<p>13AUMTBC Page 32</p> <p>1 and never see New York again.</p> <p>2 What is the response date, Mr. Miller?</p> <p>3 MR. MILLER: I enjoy New York.</p> <p>4 THE COURT: We have not been enjoying the weather this 5 year.</p> <p>6 After March 31st, when do you want to respond, I guess 7 it is called. Can you do it in three weeks since the gentleman 8 to your rear agreed to do three weeks?</p> <p>9 MR. MILLER: Yes, your Honor.</p> <p>10 THE COURT: Good. You are the one who would like this 11 done. So that would be the 21st of April.</p> <p>12 And the reply, Mr. Cox, and it is done?</p> <p>13 MR. COX: 10 days, your Honor.</p> <p>14 THE COURT: OK. May 3. Fully submitted May 3.</p> <p>15 All of my rules apply which means page limits, exhibit 16 limits, page limits there, everything with limits. I don't 17 accept boxes.</p> <p>18 Any questions?</p> <p>19 MR. COX: No, your Honor. Thank you.</p> <p>20 THE COURT: Thank you.</p> <p>21 MR. MILLER: Your Honor, as a matter of information 22 for the Court, the parties have reached an agreement on a 23 mediator.</p> <p>24 THE COURT: In which case?</p> <p>25 MR. MILLER: We are going to start with the Crescenta</p>

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1 Water Valley case, but we anticipate that the California case
2 that is being handled by my firm will be handled by retired
3 Judge Chiantelli out of San Francisco. And then we have no
4 understanding or agreement on the state cases, like the state
5 of New Jersey and common law of Puerto Rico that my firm is
6 bringing -- felt that it is a little too soon in the view of
7 defense counsel.

8 THE COURT: Does it include Orange County Water
9 District?

10 MR. COX: I am sorry, your Honor. The agreement to
11 use Judge Chiantelli includes just the Crescenta Valley Water
12 District.

13 MR. MILLER: OK.

14 MR. COX: But it could be a stepping stone to
15 something.

16 MR. MILLER: We will see how it goes.

17 THE COURT: Should we hold off on this motion or
18 should we stick with this briefing schedule that we just did?

19 When are you meeting with the judge?

20 MR. MILLER: Your Honor, I really think that we should
21 get this motion resolved.

22 MR. COX: Agreed.

23 THE COURT: But it could affect the mediation,
24 obviously.

25 Let me ask you this, will you be meeting with him

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1 during this briefing period? Do you know?

2 MR. MILLER: It is likely we will meet before May 3.
3 I am certainly going to try to arrange that, hopefully,
4 sometime toward the end of April.

5 THE COURT: All right. Thank you.

6 I guess we are all set.

7 Thank you.

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EXHIBIT 7

ARNOLD & PORTER LLP

Lawrence A. Cox
Lawrence_Cox@aporter.com

213.243.4022
213.243.4199 Fax

44th Floor
777 South Figueroa Street
Los Angeles, CA 90017-5844

March 15, 2011

VIA EMAIL AND LNF&S

Duane Miller, Esq.
Miller, Axline & Sawyer
1050 Fulton Avenue, Suite 100
Sacramento, CA 95825-4255

Re: In Re MTBE Products Liability Litigation, MDL NO. 1358
Crescenta Valley Water District v. Mobil Corporation, et al., 07 Civ. 9453 (SAS)
Stipulation to Eliminate Various Wells from Claims Asserted against BP
Defendants

Dear Duane:

I am writing as a follow up to the March 10 Pre-Motion Conference to facilitate a stipulation and order that would enter partial summary judgment for the BP Defendants as to those CVWD wells modeled by Dr. Wheatcraft to have zero concentrations of MTBE during time periods that MTBE was measured in such wells above the 0.5 ppb DLR. As covered with Judge Scheindlin last week (and reflected on the attached chart) this stipulation relates to CVWD wells 1, 6, 7, 8, 9, 10, 11, 12, 14 and 15.

As you recall, this is the procedure recommended by Judge Scheindlin at the end of last week's session:

MR. COX: [T]he motion also contemplated that we would be relying upon the Wheatcraft model for the zero concentrations and --

THE COURT: You don't need to. Twice on this record, Mr. Miller says, I am not suing when it is a zero. If my own expert says zero, you win. I am not going there right now. Some day it may be different, I have a ripe claim and I will bring it. If it is zero, it is zero. You might want to talk to him later about getting some kind of agreement in writing, but that's what he said on the record.

EXHIBIT 7

ARNOLD & PORTER LLP

Duane C. Miller, Esq.

March 15, 2011

Page 2

MR. MILLER: ...I am not going to take a position if my experts say it is zero that that's a claim.

THE COURT: Shouldn't be in dispute. You are grownups. You can talk to each other. You are sophisticated. You can see if you can propose a stipulation....

(March 10, 2011 Transcript, pp. 29, line 1 - 30, line 4.)

A Stipulation And [Proposed] Order Entering Partial Summary Judgment For The BP Defendants As To Certain CVWD Wells is enclosed. To avoid the unnecessary time and expense of filing a formal motion as to these wells, will you please sign and return the enclosed Stipulation at your earliest convenience. As always, please feel free to call should you have any questions about this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry", is written over the printed name of Lawrence A. Cox.

LAWRENCE A. COX

cc: All Counsel (via LNFS)

30743679

MTBE Testing Results Reported And Modeled By CVWD

Well No.	1	2*	5	6	7	8	9	10	11	12	14	15
Current MTBE Levels	ND - <.11ppb	ND - .19 ppb	ND - .28 ppb	ND - .11 ppb	ND - .12 ppb	ND - .71 ppb	ND - <.11ppb	ND - <.11ppb	ND - .22 ppb	ND - .14 ppb	ND - .22 ppb	ND - <.11ppb
Period of Reported Concentrations >5 ppb	Aug - Sept. 2006	--	Aug. 2008 - May 2010	--	Aug. 2006 - March 2007	--	--	--	--	--	--	--
ACRO Station's Contributions Per Pl's Model	0 ppb	--	.0008 - .0490 ppb	--	0 ppb	--	--	--	--	--	--	--
Period of Reported Concentrations >0.5 ppb	Aug. 2006 - Jan. 2007	Oct. 2006 - Feb. 2007	Jan. 2008 - June 2010	Oct. 2006	Aug. 2006 - Oct. 2007	Aug. 2006 - Present	Oct. 2006	Dec. 2006	Aug. 2006 - Nov. 2006	Aug. 2006 - Jan. 2007	Oct. 2006 - July 2008	--
ARCO Station's Contributions Per Pl's Model	0 ppb	.0018 to .0077 ppb	.0001 - .0562 ppb	0 ppb	0 ppb	0 ppb	0 ppb	0 ppb	0 ppb	0 ppb	0 ppb	--

* Well 2 was taken out of service in 1976 due to septic tank contamination nitrate levels above MCLs, and has been periodically tested but never returned to operation by the District.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

In re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

-----X

This Document Relates To:

*Crescenta Valley Water District v. Exxon Mobil
Corporation, et al., Case No. 07 Civ. 9453 (SAS)*

-----X

**Master File No. 1:00-1898
MDL NO. 1358 (SAS)
M21-88**

The Honorable Shira A. Scheindlin

**STIPULATION AND [PROPOSED]
ORDER ENTERING PARTIAL
SUMMARY JUDGMENT FOR THE
BP DEFENDANTS AS TO
CERTAIN CVWD WELLS**

The parties to this action through their respective counsel of record hereby
stipulate as follows:

WHEREAS, on March 10, 2011 a Pre-Motion Conference was held with respect
to the Motions for Summary Judgment and/or Partial Summary Judgment of Defendants
Atlantic Richfield Corporation and BP Products North America Inc. ("BP");

WHEREAS, counsel for plaintiff Crescenta Valley Water District ("CVWD")
acknowledged on the record in response to the Court's inquiry that CVWD was not
asserting claims against BP as to wells that had been modeled by CVWD's expert,
Dr. Stephen Wheatcraft, as containing a zero parts per billion concentration from the
former ARCO service station¹ during the periods that the wells in question actually
reported MTBE concentrations at or above 0.5 ppb (California's current Detection Limit
for Purposes of Reporting); and

WHEREAS, the parties agree that BP is entitled to partial summary judgment at
this time as to such wells.

¹The "former ARCO service station" refers to a site at 6454 Foothill Blvd., La Crescenta,
CA that was formerly an ARCO branded service station.

BASED ON THE FOREGOING IT IS HEREBY STIPULATED AND AGREED that BP should be granted partial summary judgment in this case as CVWD will not assert a claim against BP for any liability related in any manner to: (i) past detections of MTBE in CVWD wells 1, 6, 7, 9, 10, 11, 12, 14 and/or 15; or (ii) past or future detections of MTBE in CVWD well 8.

Dated: March ____, 2011

By: _____
MILLER AXLINE & SAWYER
Duane C. Miller (CA #57812)
Michael D. Axline (CA #229840)
1050 Fulton Avenue, Suite 100
Sacramento, CA 95825
Telephone: (916) 488-6688
Facsimile: (916) 488-4288

Attorneys for Plaintiff Crescenta Valley Water District

Dated: March ____, 2011

By: _____
ARNOLD & PORTER LLP
Matthew T. Heartney (MH 3737)
Lawrence A. Cox (LC 2421)
777 South Figueroa Street, 44th Floor
Los Angeles, California 90017-5844
Telephone: (213) 243-4000
Facsimile: (213) 243-4199

Attorneys for Defendants Atlantic Richfield Company and
BP Products North America Inc.

THE FOREGOING IS HEREBY APPROVED AND SO ORDERED.

Dated: _____

HONORABLE SHIRA A. SCHEINDLIN
United States District Court,
Southern District of New York

EXHIBIT 8

Cox, Lawrence

From: Cox, Lawrence
Sent: Thursday, March 17, 2011 5:49 PM
To: Duane Miller (Duane Miller)
Subject: CVWD Stipulation
Attachments: MTBE CVWD Stipulation For Partial SJ As To Certain Wells_(WEST_30743710_1).pdf

Duane, when you get the chance could you let me know where you are on signing the attached stip?
Thanks, Larry

Lawrence Cox
Partner
Arnold & Porter LLP
44th Floor
777 South Figueroa Street
Los Angeles, CA 90017-5844
Telephone: 213.243.4022
lawrence.cox@aporter.com
www.arnoldporter.com

EXHIBIT 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
In re: Methyl Tertiary Butyl Ether ("MTBE")	:	Master File No. 1:00-1898
Products Liability Litigation	:	MDL No. 1358 (SAS)
	:	
	:	The Honorable Shira A. Scheindlin
This Document Relates To:	:	
<i>Crescenta Valley Water District v. Exxon Mobil</i>	:	
<i>Corporation, et al., Case No. 07 Civ. 9453 (SAS)</i>	:	
	:	
	:	
-----	X	

CERTIFICATE OF SERVICE

William Costley, pursuant to 28 USC 1746, hereby declares under penalty of perjury, that on 31st day of March, 2011, I caused to be served by electronic means upon all parties to the above-referenced matter via LexisNexis File & Serve a true and correct copy of the following document:

**DECLARATION OF LAWRENCE A. COX IN SUPPORT OF BP DEFENDANTS'
MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO CERTAIN CVWD WELLS**



William Costley